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OFFICE OF PETITIONS

In re Application of :
Einzinger et al. :
Application No. 10/521,854 :
Filed: January 21, 2005 :
Attorney Docket No. DE 020186 :

ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed on January 4, 2008.

The petition to withdraw the holding of abandonment is **GRANTED**

This above-identified application was held abandoned for failure to timely reply to the restriction requirement mailed July 16, 2007. The Restriction Requirement set a one (1) month shortened statutory period for reply. A Notice of Abandonment was mailed on January 2, 2008.

Petitioner contends that the time period to reply to the restriction requirement did not expire until January 16, 2008. Thus, the application was not abandoned on the mailing of the Notice of Abandonment. On petition, petitioner has provided a five month request for extension of time and a reply to the restriction requirement.

Pursuant to 37 CFR 1.136 petitioner was eligible to extend the period for reply up to five months. Thus, the maximum extendable time period was set to expire on January 16, 2008. Accordingly, the mailing of the Notice of Abandonment was prematurely mailed.

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at

issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the present petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. A courtesy copy of this decision is being mailed to the address given on the petition. However, the Office will mail all future correspondence solely to the address of record.

This application is being forwarded to Art Unit 2832 for further processing of the reply to the restriction requirement.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.



Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Thorne & Halajian, LLP
Applied Technology Center
111 West Main Street
Bay Shore, NY 11706